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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,869	02/08/2002	Steve Phillips	PIP-105-PHIL	6496

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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

EXAMINER

CHEUNG, MARY DA ZHI WANG

ART UNIT	PAPER NUMBER
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3694

NOTIFICATION DATE	DELIVERY MODE
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09/25/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

general@neifeld.com
rneifeld@neifeld.com

Office Action Summary	Application No. 10/067,869	Applicant(s) PHILLIPS ET AL.	
	Examiner Mary Cheung	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 June 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6,8-13 and 15-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6,8-13 and 15-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Status of the Claims

1. This action is in response to the amendment filed on June 26, 2007. Claims 1-6, 8-13 and 15-20 are pending. Claims 7 and 14 are canceled. Claims 15-20 are added. Claims 1, 5, 8 and 12 are amended.

Response to Arguments

2. In the remarks filed on June 26, 2007, the applicant stated that a list of IDS is submitted with the amendment. However, examiner did not found the document.
3. Applicant's arguments with respect to claims 1-6, 8-13 and 15-20 have been considered but are moot in view of the new ground(s) of rejection.

Information Disclosure Statement

4. The information disclosure statement filed February 8, 2002 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered. The list of PTO-1449 is missing from the file. It is requested to resubmit the list of the IDS.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-6, 8-13 and 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 8 recite the limitation "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account". The applicant states the limitation is supported by the specification on page 6 lines 7-8, 13-14 and page 8 lines 10-12 (see the remarks filed on June 26, 2007). Examiner has reviewed the sections as pointed out by the applicant, and such limitation is not shown. The cited sections merely explain that the third party sells card and the card can be activated by the third party. It is not clear when the third party credits the retailer the amount of money. At least, the specification does not support the limitation that crediting the retailer the amount of money when the third party activates the account.

Claims 2-6, 9-13 and 15-20 are rejected for incorporating the errors of their respective base claims by dependency.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3-5, 8, 10-12, 16-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al., US 5,945,653 in view of Risafi et al., US 6,473,500 B1.

As to claim 1, Walker teaches a computer implement method comprising the steps of:

- a) Storing a CID on a card (Fig. 3);
- b) Activating, in a computer system of a third party, a consumer account associated with said card (column 4 lines 57-60);
- c) Providing, in said computer system of said third party, said consumer account with an initial credit (Fig. 3);
- d) Identifying, in a retail store computer system, said CID in a purchase transaction in a retail store associated with said retail store computer system (column 18 line 57 – column 19 line 56);
- e) Debiting, in said retail store computer system, said consumer account by the amount of said purchase transaction (column 18 line 57 – column 19 line 56);
- f) Determining, in said retail store computer system, conditions for future credits associated with said CID (column 18 line 57 – column 19 line 56 and column 21 line 42 – column 22 line 14 and Figs. 5-7C, 9);
- g) Storing, in said retail store computer system, said conditions in an account associated with said CID (column 18 line 57 – column 19 line 56 and column 21 line 42 – column 22 line 14 and Figs. 5-7C, 9);

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h) Crediting, in said retail store computer system, said consumer account, when said conditions are satisfied (column 18 line 57 – column 19 line 56 and column 21 line 42 – column 22 line 14 and Figs. 5-7C, 9).

Walker does not specifically teach selling said card by said third party to a consumer at a card sale price, and crediting, in said computer system of said third party, retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account. However, Risafi teaches a third party sells shopping card to a consumer at a card sale price, and the third party activates the shopping card, and crediting a retailer by an amount less than an initial credit of the a card (column 2 lines 9-13 and column 9 lines 44-46 and column 10 lines 1-67 and column 12 line 52 – column 13 line 61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Walker's teaching to include the features of selling the shopping card by a third party to a consumer at a card sale price, and the third party activates the shopping card, and crediting a retailer by an amount less than an initial credit of the a card as taught by Risafi for attracting more consumers to purchase the card for shopping.

As to claim 3, Walker does not specifically teach the card is one of a plurality of store cards batch activated and postal mailed to consumer's postal addresses. However, Risafi teaches this matter (column 2 lines 9-12 and column 10 lines 12-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the card in Walker's teaching to be one of a plurality of store cards batch

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activated and postal mailed to consumer's postal addresses as taught by Risafi for better promoting the sales of the products or services provided by the stores.

As to claim 4, Walker teaches storing product purchase history for products purchased in associates with said CID (column 2 lines 40-53).

As to claim 5, Walker teaches said conditions depend upon said product purchase history stored in association with said CID meeting criteria (Fig. 9).

As to claim 16, Walker and Risafi further teaches after said activation, transmitting from said computer system of said third party to said retail store computer system a signal indicating that said consumer account has been activated (Walker: column 18 line 57 – column 19 line 56; Risafi: column 10 lines 1-67 and column 12 line 52 – column 13 line 61; and see claim 1 above).

As to claim 17, Walker and Risafi further teaches transferring funds totaling an amount that is less than said card sale price from said third party to said retail store (Walker: column 18 line 57 – column 19 line 56; Risafi: column 10 lines 1-67 and column 12 line 52 – column 13 line 61; and see claim 1 above).

Claims 8, 10-12 and 19-20 are parallel with claims 1, 3-5 and 16-17, thus they are rejected on the same basis.

9. Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al., US 5,945,653 in view of Risafi et al., US 6,473,500 B1, and in further view of Office Notice.

As to claims 15 and 18, Walker and Risafi does not specifically teach the card sale price is less than said initial credit. Office Notice is taken for this limitation. It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the card to be sold at a price is less than its initial credit for promoting consumers to purchase the card.

10. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al., US 5,945,653 in view of Risafi et al., US 6,473,500 B1, and in further view of Horgan, US 2002/0022966 A1.

As to claims 2 and 9, Walker modified by Risafi does not specifically teach the card is sold to a consumer as a gift card defining a right to specified credit in specified store. However, Horgan teaches this matter (¶ 19). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the card in the teaching of Walker modified by Risafi to be a gift card as taught by Horgan for better promoting the sales of the products or services provided by the specified stores.

11. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al., US 5,945,653 in view of Risafi et al., US 6,473,500 B1, and in further view of Packes, Jr. et al., US 7,006,983 B1.

As to claims 6 and 13, Walker modified by Risafi does not specifically teach said criteria are transmitted from a manufacturer to a central computer storing product purchase history data associated with CIDs from a plurality of retail stores and retail store companies. However, this matter is taught by Packes as manufacturer servers and plurality of retail terminals are connected to a central computer, and the central computer stores incentive information received from the manufacturers including meeting criteria of the incentives, and the central computer also stores consumer's

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purchase history information associated with CID received from the retailers (Figs. 1-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the criteria in the teaching of Walker modified by Risafi to be transmitted from a manufacturer to a central computer storing product purchase history data associated with CIDs from a plurality of retail stores and retail store companies as taught by Packes for centralizing transaction information of the purchases.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (571)-272-6705. The examiner can normally be reached on Monday – Thursday from 10:00 AM to

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7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (571) 272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax phone number for the organization where this application or proceedings is assigned are as follows:

(571) 273-8300 (Official Communications; including After Final
Communications labeled "BOX AF")

(571) 273-6705 (Draft Communications)

Mary Cheung
Primary Examiner
September 16, 2007

